

Sixth Appellate District

San Jose, California

TUESDAY, JULY 5, 2005

H027848 BOARD OF PRISON TERMS v. SUPERIOR COURT; NGO
H028006 BOARD OF PRISON TERMS v. SUPERIOR COURT; GAOIRAN
H028022 BOARD OF PRISON TERMS v. SUPERIOR COURT; BETTENCOURT
H028070 BOARD OF PRISON TERMS v. SUPERIOR COURT; LEWIS

In *People v. Superior Court (Ngo)*, H027848: Let a peremptory writ of mandate issue commanding the superior court to vacate its order to show cause and the discovery order included in the order to show cause, and to reconsider its rulings in accordance with the views expressed in this opinion. The temporary stay order is vacated.

In *People v. Superior Court (Gaoiran)*, H028006: Let a peremptory writ of mandate issue commanding the superior court to vacate its order to show cause and the discovery order included in the order to show cause, and to reconsider its rulings in accordance with the views expressed in this opinion. The temporary stay order is vacated.

In *People v. Superior Court (Lewis)*, H028070: Let a peremptory writ of mandate issue commanding the superior court to vacate its order to show cause, and to reconsider its rulings in accordance with the view expressed in this opinion. The temporary stay order is vacated.

In *People v. Superior Court (Bettencourt)*, H028022: Let a peremptory writ of mandate issue commanding the superior court to vacate its order to show cause, and to reconsider its rulings in accordance with the view expressed in this opinion. The temporary stay order is vacated.

(published) (Bamattre-Manoukian, Acting P.J.; We concur:
Mihara, J., McAdams, J.)
Filed July 5, 2005

H026580 PEOPLE v. DANIELS
H027726 PEOPLE v. BARNES
H027847 PEOPLE v. TARANGO

The cause herein is ordered submitted.
Dated: July 5, 2005 RUSHING, P.J.

Sixth Appellate District

San Jose, California

Tuesday, July 5, 2005 (continued)

H027368 PEOPLE v. HEARD

H027369 PEOPLE v. HEARD

H027563 PEOPLE v. VACA

H027942 PEOPLE v. PHAM, ET AL.

H028202 PEOPLE v. VICCHIONE

H027821 NETTLES v. CUMMINGS, ET AL.

H028248 NASLUND v. DAVE & BUSTERS OF CALIFORNIA, INC.

The cause herein is ordered submitted.

Dated: July 5, 2005 BAMATTRE-MANOUKIAN, Acting P.J.

H027488 GORMAN v. MERRILL LYNCH, PIERCE, FENNER & SMITH, INC.,
et al.

The trial court's order granting plaintiff's motion to vacate arbitration and return the case to the superior court's civil trial calendar is reversed. The case is remanded with directions to enter a new order denying the motion. The parties shall bear their own costs on appeal. (not published)

(Premo, J.; We concur: Rushing, P.J., Elia, J.)

Filed July 5, 2005

WEDNESDAY, JULY 6, 2005

H027726 PEOPLE v. BARNES

The judgment is affirmed. (not published)

(Premo, J.; We concur: Rushing, P.J., Elia, J.)

Filed July 6, 2005

H026857 MICELI v. CALIFORNIA DEPARTMENT OF TRANSPORTATION

The judgment is affirmed. Defendant shall recover its costs on appeal. (not published)

(McAdams, J.; We concur: Bamattre-Manoukian, Acting P.J., Mihara, J.)

Filed July 6, 2005

H028196 PEOPLE v. CORONADO

The judgment is affirmed. (not published)

(Elia, J.; We concur: Rushing, P.J., Premo, J.)

Filed July 6, 2005

Sixth Appellate District

San Jose, California

Wednesday, July 6, 2005 (continued)

H027583 PEOPLE v. HAMEL

The matter is remanded for the purpose of re-sentencing based on a re-calculation of appellant's prison credits by the Department of Corrections. The judgment is otherwise affirmed. (not published)

(Elia, J.; We concur: Rushing, P.J., Premo, J.)

Filed July 6, 2005

H027894 PEOPLE v. RHINES

The judgment is modified to reflect 696 days of actual pre-sentence custody and 104 days of conduct credit. As so modified, the judgment is affirmed. The clerk of the superior court shall prepare and forward an amended abstract of judgment to the Department of Corrections. (not published)

(Elia, J.; We concur: Rushing, P.J., Premo, J.)

Filed July 6, 2005

H028136 MONTEREY COUNTY DSS v. JUAN M.

By the Court*:

Appellant's petition for rehearing is denied.

Filed: July 6, 2005

*Before Rushing, P.J., Premo, J. and Elia, J.

H027237 GILBERT v. CITY OF SUNNYVALE, et al.

The February 25, 2005 order of the court denying the petition for writ of mandate is affirmed. Appellant shall bear costs on appeal. (published)

(Elia, J.; We concur: Rushing, P.J., Premo, J.)

Filed July 6, 2005

H028171 PEOPLE v. JOHNSON

By the Court:

Upon the court's own motion, the submission order in the above-entitled matter dated June 8, 2005, is hereby vacated. The court by separate letter issued June 28, 2005, has requested supplemental briefing from the parties. The cause will be resubmitted upon completion of supplemental briefing.

Dated: July 6, 2005 Premo, Acting P.J.

H026716 PEOPLE v. BROWNING

The judgment is reversed. (not published)

(Rushing, P.J.; We concur: Premo, J., Elia, J.)

Filed July 6, 2005

Sixth Appellate District

San Jose, California

Wednesday, July 6, 2005 (continued)

H026759 SILICON VALLEY TAXPAYERS ASSN., et al. v. SANTA CLARA
COUNTY OPEN SPACE AUTHORITY

The judgment is affirmed. (published)
(Premo, Acting P.J.; I concur: Walsh, J.*, Dissenting opinion by
Bamattre-Manoukian, J.)

Filed July 6, 2005

(*Judge of the Monterey Superior Court assigned by the Chief
Justice pursuant to article VI, section 6 of the California
Constitution.)

H027652 PEOPLE V. BROWN

H027920 PEOPLE V. LAUDERDALE

The cause herein is ordered submitted.

Dated: July 6, 2005 PREMO, Acting P.J.

THURSDAY, JULY 7, 2005

H028405 DFCS v. LISA U.

H026819 PEOPLE v. FERNANDEZ

H027707 PEOPLE v. ROYBAL

H027660 PEOPLE v. AUYON

H027594 PEOPLE v. TAYLOR

H027283 PEOPLE v. PLISKA

H028191 PEOPLE v. LADD

H027360 PEOPLE v. LEIVA

H027677 PEOPLE v. STEWARD

The cause herein is ordered submitted.

Dated: July 7, 2005 RUSHING, P.J.

FRIDAY, JULY 8, 2005

H027820 PEOPLE v. SOTO

The parole revocation restitution fine in the amount of
\$9,600 under section 1202.45 is ordered stricken. The trial
court shall prepare an amended abstract of judgment reflecting
this modification and forward a certified copy of the amended
abstract to the Department of Corrections. As modified, the
judgment is affirmed. (not published)

(Premo, J.; We concur: Rushing, P.J., Elia, J.)

Filed July 8, 2005

Sixth Appellate District

San Jose, California

Friday, July 8, 2005 (continued)

H027892 PEOPLE v. GUIDOTTI

The \$600 restitution fine is stricken. The judgment is modified to reflect only the \$200 restitution fine originally imposed in this case. In addition, the judgment is modified to reflect a \$200 parole revocation fine, which is suspended unless parole is revoked (Pen. Code, § 1202.45). As modified, the judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment in accordance with this disposition and to deliver it to the Department of Corrections. (not published)

(Elia, J.; We concur: Rushing, P.J., Premo, J.)
Filed July 8, 2005

H027521 LOWE on Habeas Corpus

By the Court:

The written opinion which was filed on June 10, 2005 is certified for publication. (Mihara, J.; Bamattre-Manoukian, Acting P.J., McAdams, J.)

The written opinion which was filed on June 10, 2005 has now been certified for publication in its entirety pursuant to California Rules of Court, rule 976(b), and it is therefore ordered that it be published in the Official Reports.

Dated: July 8, 2005 Bamattre-Manoukian, Acting P.J.

H028840 TRANSITIONS REHABILITATION, INC. v. MINER

By the Court:

Appellant's motion for vacation of dismissal pursuant to California Rules of Court, 8(b)(1) is granted, provided the record on appeal is procured from the superior court within 10 days from the date of this order.

Filed: July 8, 2005 Rushing, P.J.

H027797 PEOPLE v. MORAN

The judgment is affirmed. (not published)

(Bamattre-Manoukian, Acting P.J.; We concur: Mihara, J., McAdams, J.)

Filed July 8, 2005